

**CITY OF HENDERSONVILLE
PERSONNEL POLICY**

BE IT RESOLVED by the City Council of the City of Hendersonville that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the City of Hendersonville.

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ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the City under the supervision of the City Manager. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

Section 2. At Will Employment

The City of Hendersonville is an "at will" employer. Nothing in this policy creates an employment contract or term between the City and its employees. No person has the authority to grant any employee any contractual rights of employment.

Section 3. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, or age.

Section 4. Responsibilities of the City Council

The City Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits as necessary. They also shall make and confirm appointments when so specified by the general statutes.

Section 5. Responsibilities of the City Manager

The City Manager shall be accountable to the City Council for the administration and technical direction of the personnel program. The City Manager shall appoint, suspend, and remove all City employees except those whose appointment is otherwise provided for by law. The City Manager shall make appointments, dismissals and suspensions in accordance with the City charter and other policies and procedures spelled out in other Articles in this Policy.

The City Manager shall supervise or participate in:

- a) recommending rules and revisions to the personnel system to the City Council for consideration;
- b) making changes as necessary to maintain an up to date and accurate position classification plan;
- c) preparing and recommending necessary revisions to the pay plan;
- d) determining which employees shall be subject to the overtime provisions of FLSA;
- e) establishing and maintaining a roster of all persons and authorized positions in the

municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;

- f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- g) performing such other duties as may be assigned by the City Council not inconsistent with this Policy; and
- h) appointing an employee to the role of Human Resources Officer.

Section 6. Responsibilities of the Human Resources Officer

The responsibilities of the Human Resources Officer are to make recommendations to the City Manager on the following:

- a) recommending rules and revisions to the personnel system to the City Manager for consideration;
- b) recommending changes as necessary to maintain an up to date and accurate position classification plan;
- c) recommending necessary revisions to the pay plan;
- d) recommending which employees shall be subject to the overtime provisions of FLSA;
- e) maintaining a roster of all persons in the municipal service
- f) establishing and maintaining a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- g) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- h) developing and coordinating training and educational programs for City employees;
- i) periodically investigating the operation and effect of the personnel provisions of this Policy; and
- j) performing such other duties as may be assigned by the City Manager not inconsistent with this Policy.

Section 7. Application of Policies, Plan, Rules, and Regulations

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all City employees. The City Manager, City Attorney, members of the City Council and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating

any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

Section 8. Departmental Rules and Regulations

Because of the particular personnel and operational requirements of the various departments of the City, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the City Manager, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy.

Section 9. Definitions

For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Full-time employee. An employee who is in a position for which an average work week equals at least 35 hours, and continuous employment of at least 12 months, are required by the City.

Part-time employee. An employee who is in a position for which an average work week of at least 20 hours and less than 35 hours and continuous employment of at least 12 months are required by the City.

Regular employee. An employee appointed to a full or part-time position who has successfully completed the designated probationary period.

Probationary employee. An employee appointed to a full or part-time position who has not yet successfully completed the designated probationary period.

Temporary employee. An employee, not in a permanent position, for which either the average work week required by the City over the course of a year is less than 25 hours, or continuous employment required by the City is less than 12 months.

Trainee. An employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

Permanent position. A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All City positions are subject to budget review and approval each year by the City Council and all employees' work and conduct must meet City standards. Therefore, reference to "permanent " positions or employment should not be construed as a contract or right to perpetual funding or employment.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose.

The position classification plan provides a complete inventory of all authorized and permanent positions in the City service, and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities.

Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- b) class titles descriptive of the work of the class;
- c) written specifications for each class of positions; and
- d) an allocation list showing the class title of each position in the classified service.

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- a) as a guide in recruiting and examining applicants for employment;
- b) in determining lines of promotion and in developing employee training programs;
- c) in determining salary to be paid for various types of work;
- d) in determining personnel service items in departmental budgets; and
- e) in providing uniform job terminology.

Section 4. Administration of the Position Classification Plan

The Human Resources Officer shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Officer shall periodically review portions of the classification plan and recommend appropriate changes to the City Manager.

Section 5. Authorization of New Positions and the Position Classification Plan

New positions shall be established upon recommendation of the City Manager and approval of the City Council. New positions shall be recommended to the City Council with a recommended class title after which the City Manager shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be

allocated. The position classification plan, along with any new positions or classifications shall be approved by the City Council and on file with the Human Resources Officer. Copies will be available to all City employees for review upon request.

Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the Department Head to the Human Resources Officer. Upon receipt of such request, the Human Resources Officer shall study the request, determine the merit of the reclassification, and recommend any necessary revisions to the classification and pay plan to the City Manager.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The pay plan includes the basic salary schedule and the "Assignment of Classes to Grades" adopted by the City Council. The salary schedule consists of hiring rate, minimum or beginning, midpoint, and maximum rates of pay for all classes of positions, and a designation of the standard hours in the work week for each position.

Section 2. Administration and Maintenance

The City Manager, assisted by the Human Resources Officer, shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification, except for employees in trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, each budget year the Human Resources Officer shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the City Manager such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, all intervening rates, and the maximum change according to the market. Periodically, the City Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the City Council.

Section 3. Starting Salaries

All persons employed in positions approved in the position classification plan shall be employed at the hiring rate for the classification in which they are employed; however, exceptionally well qualified applicants may be employed above the hiring rate of the established salary range upon approval of the City Manager.

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or City employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the City Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head.

"Trainee" salaries shall be no more than two grades below the minimum salary rate established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as being in a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the City Manager, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the hiring rate established for the position for which the employee was trained.

Section 5. Probationary Pay Increases

Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase within the pay range of approximately 5% upon successful completion of the probationary period. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment.

Section 6. Merit Pay

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the City Manager.

Section 7. Merit Pay Bonus

Employees who are at the maximum amount of the salary range for their position classification are eligible to be considered for a Merit Bonus at their regular performance evaluation time. Merit bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are within the salary range. Merit bonuses shall be awarded in lump sum payments and do not become part of base pay.

Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of at least approximately 5% over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the City Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employees qualifications for the job and relative worth to the City, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the City shall consider internal comparisons with other employees in the same or similar jobs.

Demotions. Demotion is the involuntary movement of an employee from one position to a position in a class assigned to a lower salary range. When an employee is demoted to a position for which qualified, the salary shall be decreased at least 5%. Salaries of demoted employees may be no greater than the maximum of the new range.

Reassignments. A reassignment is defined as the voluntary movement to a position in a lower salary range. When an employee takes a reassignment, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to perform the job and consistent with the placement of other employees within the same classification. Salary may be

retained at the same level when this option does not create internal inequities with other employees in the same or similar job.

Transfers. The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment.

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately 5% or an increase to the minimum rate of the new pay range, whichever is higher.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately 5%, or to the minimum rate of the new range, whichever is higher. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 10. Transition to a New Salary Plan

The following principles shall govern the transition to a new salary plan:

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.
- 2) All employees being paid at a rate lower than the hiring rate established for their respective classes shall have their salaries raised at least to the new hiring rate for their classes. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount (minimum) in the new range.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate within the salary schedule.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

Section 11. Effective Date of Salary Changes

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period, or at such specific date as may be provided by procedures approved by the City Manager.

Section 12. Overtime Pay Provisions

Employees of the City can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the City and determined by the Department Head. Overtime work should normally be approved in advance by the Department Head, City Manager or other designated City official.

To the extent that local government jurisdictions are so required, the City will comply with the Fair Labor Standards Act (FLSA). The Human Resources Officer shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7-day period; 171 hours for police and 212 hours for fire personnel in a 28 day cycle). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes. Compensatory leave balances may not exceed 240 hours except for public safety employees (sworn police and firefighting employees) who may not accrue more than 480 hours. Any overtime worked after such maximum balances must be compensated in pay.

Employees are required to use or be paid for compensatory time before the start of each fiscal year, by June 30th. Employees if they choose, may retain and carry over up to twelve (12) hours of compensatory time each fiscal year. All other compensatory time will be paid out, in accordance with FLSA standards, upon the last pay period for the fiscal year. Departments Heads may exercise discretion in the manner in which employees accrue compensatory time or are paid for overtime.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime.

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted flexible time by their supervisor on an hour for hour basis where the convenience of the department allows. Such flexible time is not guaranteed to be taken and ends without compensation upon separation from the organization.

Section 13. Call-back and Stand-by Pay

The City provides a continuous twenty-four hour a day, seven day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the City is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the City Manager.

Call-back. Non-exempt employees will be guaranteed a minimum payment of two hours of wages for being called back to work outside of normal working hours. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

Stand-by. Stand-by time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be paid for two hours of work for each day of stand-by time they serve. Hours actually worked while on stand-by are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week.

Section 14. Payroll Deduction

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the City Manager as to capability of payroll equipment, associated increase in workload and appropriateness of the deduction.

Section 15. Hourly Rate of Pay

Employees working in a part-time or temporary capacity with the same duties as full-time employees will work at a rate in the same salary range as the full-time employees.

Section 16. Longevity Pay

Full-time and part-time employees of the City are compensated for years of continuous service by payment of a longevity supplement based on the following table. Employees shall receive longevity pay in the payroll that contains their anniversary date. Longevity pay shall reflect their continuous years of service as of their anniversary date according to the following schedule:

<u>Years of Service</u>	<u>Longevity Amount</u>
5 - 9	1.00%
10 - 14	1.50%
15 - 19	2.00%
20 plus	2.50%

Longevity pay may be approved each fiscal year depending upon the financial conditions of the City and would not be considered a part of the annual base pay. Appropriate federal state, retirement, etc. deductions will be made.

Section 17. Pay for Interim Assignments in a Higher Level Classification

An employee who is formally designated by the City Manager to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the Interim assignment. The employee shall receive a salary adjustment to the minimum level of the job in which the employee is acting or an increase of 5%, whichever is greater. The salary increase shall be temporary and upon completion of the assignment, the employee shall go back to the salary he or she would have had if not assigned in the Interim role, taking into account any increases the employee would have received if they had not been placed in the Interim role.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the City to foster, maintain and promote equal employment opportunity. The City shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, political affiliation, or marital status. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of essential duties with or without reasonable accommodation.

Section 2. Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, disability, national origin, political affiliation, or marital status. Notices with regard to equal employment matters shall be posted in conspicuous places on City premises in places where notices are customarily posted.

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, Human Resources Department shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments if practical. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for City service. The North Carolina Employment Security Commission may be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., the City may hire or promote without advertising jobs, upon approval of the City Manager.

Job Advertisements. Jobs will be advertised in local newspapers, professional publications, and other relevant publications in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the City shall be given the opportunity to file an application for employment for positions which are vacant.

Applicant Interest Card. Persons interested in employment with the City may complete an applicant interest card concerning all of the positions for which they wish to apply. These cards will be maintained for a period of six months. When a vacancy occurs in positions of interest, the card will be sent, notifying the person and requesting that the person complete an application before the designated deadline.

Application Reserve File. Applications shall be kept in an inactive reserve file for a period of two

years, in accordance with Equal Employment Opportunity Commission guidelines.

Selection. Department Heads, with the assistance of the Human Resources Officer, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related using the DCI when needed. All selection devices administered by the City shall be valid measures of job performance.

Appointment. Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Human Resources Officer including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Officer and Department Head shall recommend approval of appointments and the starting salary for all applicants to the City Manager. The City Manager shall approve appointments and the starting salary for all applicants.

Section 4. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six-month probationary period, except that employees in sworn police, entry level fire, and Department Heads positions shall serve a twelve-month probationary period. Employees hired as "trainees" shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months.

Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy.

A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits such as the right to use of the grievance procedures.

Section 5. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the City's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The City will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in

rare situations where previous City experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the City will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 6. Demotion and Reassignment

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. A voluntary demotion may be called a "reassignment." An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such disciplinary demotion shall follow the disciplinary procedures outlined in this Policy.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a reassignment. A reassignment is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

Section 7. Transfer

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Officer to the City Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this Policy. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

Department Heads shall establish work schedules, with the approval of the City Manager which meet the operational needs of the department in the most cost effective manner possible.

Section 2. Political Activity

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States. However, no employee shall:

- a) Engage in any political or partisan activity while on duty;
- b) Use official authority of influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- d) Coerce or compel contributions from another employee of the City for political or partisan purposes;
- e) Use any supplies or equipment of the City for political or partisan purposes; or
- f) Be a candidate for nomination or election to office under the City Charter;

Any violation of this section shall subject the employee to disciplinary action including dismissal.

Section 3. Outside Employment

The work of the City shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the Department Head. The Department Head will review such employment for possible conflict of interest and then submit a record of the employment and review to the personnel file. Conflicting or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file.

Examples of conflicts of interest in outside employment include but are not limited to:

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment with organizations or in capacities that negatively impact the employee's perceived

integrity, neutrality, or reputation related to performance of the employee's City duties.

Section 4. Dual Employment

A full or part-time employee of the City may simultaneously hold another position with the City if the temporary position is in a different department and clearly different program area from that of the full or part-time position. The work of the temporary position must also be performed on an occasional or sporadic basis as identified in Fair Labor Standards Act regulations. However, the work of the full or part-time position shall take precedence over the temporary position, and such temporary work will not count toward the calculation of overtime for pay or time off.

Section 5. Employment of Relatives

The City prohibits the hiring and employment of immediate family in permanent positions within the same work unit. "Immediate Family" is defined in Article VII, Section 12. The City also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Temp, City Council Member, City Manager, Finance Director, Human Resources Officer, City Clerk, or City Attorney. Otherwise, the City will consider employing family members or related persons in the service of the City, provided that such employment does not:

- 1) result in a relative supervising relatives;
- 2) result in a relative auditing the work of a relative;
- 3) create a conflict of interest with either relative and the City; or
- 4) create the potential or perception of favoritism.
- 5) romantic relationships between any employee and a direct or indirect supervisor or subordinate of that employee are prohibited

This provision shall not apply retroactively to anyone employed when the provision is adopted by the City.

Section 6. Harassment Prohibited

The City prohibits harassment in any form that is based on sex, race, color, religion, national origin, age, and/or disability. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive to create a hostile work environment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual's body and offensive sexual language.

Any employee who believes that he or she may have a complaint of harassment may follow the

Grievance Procedure described in this Policy or may file the complaint directly with the Human Resources Officer or Department Head who will immediately notify the City Manager. The employee may file the complaint directly with the City Manager if it involves a Department Head. The Human Resources Officer will insure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees.

Section 7. Solicitation and Acceptance of Gifts and Favors

No official or employee of the City shall solicit or accept any gift, favor, or thing of value (more than \$50) that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

Section 8. Performance Evaluation

Supervisors and/or Department Heads shall conduct Performance Evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Procedures for the performance evaluation program shall be published by the City Manager.

Section 9. Safety

Safety is the responsibility of both the City and employees. It is the policy of the City to establish a safe work environment for employees. The City shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and supervisors are responsible for insuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

Section 10. Substance Abuse Policy

The City may establish policies and procedures related to employee substance abuse in order to insure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations. The City provides a drug free workplace for all employees.

Section 11. Disruption of the Work Place

The City has a responsibility to maintain a productive and professional work environment conducive to conducting the City's business. To that end, employees are expected to keep any work place disruptions and distractions to a minimum. This includes personal visits and phone calls, receiving personal mail or packages, charitable solicitations, or other activities that distract an employee or coworkers from the work of the City. Supervisors will provide feedback to employees on any actions that are becoming distracting.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

All full-time and part-time employees of the City are eligible for employee benefits as provided for in this Article which are subject to change at the City's discretion. Temporary employees are eligible only for workers' compensation and FICA.

Part-time employees may choose additional compensation in lieu of group health and hospitalization and other insurance.

Section 2. Group Health and Hospitalization Insurance

The City provides group health and hospitalization insurance programs for full-time employees and their families, and part-time employees.

Employees who are scheduled to work 30 hours or more per week on a continuous year-round basis may, if they so desire, purchase available group health through the City for themselves or for themselves and qualified dependents. A prorated amount of the cost of coverage paid for a full-time employee shall be paid by the City with the remainder of the cost being paid by the employee. This prorated amount shall be based on regularly scheduled hours.

Information concerning cost and benefits shall be available to all employees from the Human Resources Office.

Section 3. Group Life Insurance

The City provides group life insurance for each employee subject to the stipulations of the insurance contract. Life insurance will be provided by the City in an amount approved by the City, subject to appropriation.

Section 4. Other Optional Group Insurance Plans

The City may make other group insurance plans available to employees upon authorization of the City Manager or City Council.

Section 5. Retirement

Each employee who is expected to work for the City more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System on the first day of employment as a condition of employment. New hires who are current members of the NC Local or State Government Employees' Retirement Systems shall be covered under the retirement system by the City on their first day of employment.

Section 6. Supplemental Retirement Benefits

The City provides 401-K benefits for its full and part-time employees as a percentage of salary as designated by the City Council beginning on the first day of employment, subject to appropriation by the City Council.

Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law and beginning on the first day of employment.

Section 7. Social Security

The City, to the extent of its lawful authority and power, has extended Social Security benefits for its eligible employees and eligible groups and classes of such employees.

Section 8. Workers' Compensation

All employees of the City (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Department Head and the Human Resources Officer will assist the employee in filing the claim.

This provision also applies to reactions to small pox vaccinations administered to City employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers compensation claim as regards leave and salary continuation.

Before returning to work, a statement from the attending physician should be submitted to the Human Resources Director giving permission for the employee to resume regular duties.

Upon return to work, the employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

During the disability covered by Workers Compensation benefits, an employee continues to earn annual leave, sick leave, and will retain all accumulated sick or annual leave.

Employees may use sick leave and/or vacation both during the waiting period before Workers' compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

Section 9. Unemployment Compensation

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. City employees who are terminated due to a reduction in force or released from City service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

Section 10. Tuition Assistance Program

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the City service. Tuition, registration, fees, laboratory fees, and

student fees are eligible expenses. Employees may be reimbursed for 50% of eligible expenses. Satisfactory completion of the courses will be required for reimbursement. Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review by the Human Resources Officer and approval of City Manager, subject to availability of funds.

Section 11. Law Enforcement Separation Allowance

Every sworn law enforcement officer, as defined by N.C. Gen. Stat. ' 128-21(11b) or N.C. Gen. Stat. ' 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Stat. ' 143-166.42, in the amount specified in N.C. Gen. Stat. ' 143-166.41(a).

Eligibility and continuation of these benefits are subject to the following conditions:

- a. The officer shall have completed 30 or more year of creditable service, or have attained 55 years of age and completed five or more years of creditable service; and
- b. Not have attained 62 years of age;
- c. Have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Stat. ' ' 143-166.41(a)(3) and 143-166.41(b).

Termination of these benefits happens:

- a. At death;
- b. On the last day of the month prior to which the officer attains 62 years of age; or
- c. Upon the first day of re-employment in any position in any local government in North Carolina.

The City may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System and doing so shall not cause payment to cease to those officers under these benefits. Participation in the retirement system is required by anyone scheduled to work 1000 hours per year or more.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the City is to provide vacation leave, sick leave, and holiday leave to all full-time and part-time employees, and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll. Part-time employees may choose additional compensation in lieu of pro-rated leave benefits.

Section 2. Holidays

The following days, and other such days as the City Council may designate, are holidays with full pay for employees and officers of the City:

New Year's Day
Martin Luther King's Birthday
Good Friday
Memorial Day
Independence Day

Labor Day
Veteran's Day
Thanksgiving Thursday & Friday
Christmas (see following schedule)

When Christmas Day falls on:

Sunday
Monday
Tuesday
Wednesday
Thursday
Friday
Saturday

The City observes:

Friday and Monday
Monday and Tuesday
Monday and Tuesday
Tuesday and Wednesday
Wednesday and Thursday
Thursday and Friday
Friday and Monday

When any recognized holiday falls on Saturday, the preceding Friday will be the designated holiday. When any other recognized holiday falls on Sunday, the following Monday will be the designed holiday.

In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s), or have been given approved leave.

Section 3. Holidays: Effect on Other Types of Leave

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 4. Holidays: Compensation When Work is Required or Regularly Scheduled Off for Shift Personnel

Shift employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid for hours actually worked in addition to any holiday pay to which they are entitled. This compensatory time shall be granted whenever feasible. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive the hours for paid holiday leave. Departments with employees working a shift schedule may elect to compensate those employees for working on the "true" holiday rather than the designated holiday. Employees may be paid for all excess when holiday time creates a balance exceeding 40 hours.

Section 5. Vacation Leave

Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs.

Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the City. Employees who wish to use leave for religious observances must request leave from their respective Department Heads. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the City.

Vacation Leave may be donated to other employees according to procedures published by the City Manager.

Section 6. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment unless approved in a pre-employment agreement.

Section 7. Vacation Leave: Accrual Rate

Each full and part-time employee of the City shall earn vacation at the following schedule, prorated by the average number of hours in the workweek (Section 16):

Years of Service	Days Accrued Per Year
0 - 2	10
3 - 7	10 plus 1 day for each year of service over 2 years
8 - 16	15 plus 1 day for each additional two years of service over 7 years
17 plus	20 days

Section 8. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 40 days prorated as shown in Section 16. Effective December 31st, any employee with more than 40 days of accumulated leave shall have the excess accumulation removed so that only 40 days are carried forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken.

Employees may have the excess vacation leave (over 40 days prorated as shown in Section 16) converted to sick leave.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

Section 9. Vacation Leave: Manner of Taking

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Head which will least obstruct normal operations of the City. Department Heads are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in one half (1/2 hour) increments.

Section 10. Vacation Leave: Payment upon Separation

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 40 days prorated as shown in Section 16, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the City Manager when deemed to be in the best interest of the City. Employees who are involuntarily separated shall receive payment for accumulated vacation leave subject to the 40 days prorated as shown in Section 16, maximum. Employees dismissed for criminal conduct may be determined ineligible to receive vacation pay.

Section 11. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the City shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

Section 12. Sick Leave

Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others. Sick leave may be taken in half-hour (30 minutes) increments.

"Immediate family" shall be defined as spouse, child, parent, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, parent-in-law, brother or sister-in-law, aunt, uncle, of the employee or spouse or guardian of the employee. This also includes various combinations of "step", "half", and adopted relationships. Sick leave may be used when an employee must care for a member of his or her immediate family who is ill.

Sick leave may also be used to supplement Workers' Compensation Disability Leave both during the waiting period before Workers' compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or according to departmental procedures.

Section 13. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. Sick leave for full-time and part-time employees working other than the basic work schedule shall be prorated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be

converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City, except as stated for employees retiring or terminated due to reduction in force. In addition, employees hired before October 4, 2001, may receive a payment equal to 25% of the sick leave balance the employee had accrued as of September 28, 2001.

Section 14. Transfer of Sick Leave from Previous Employer

The City will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the City of Hendersonville. The sick leave amount must be certified by the previous employer and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon completion of the probationary period.

Section 15. Sick Leave: Medical Certification

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or employee's family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

Section 16. Leave Pro-rated

Holiday, annual, and sick leave earned by full-time and part-time employees with fewer or more hours than the basic work week shall be determined by the following formula:

- 1) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours)
- 2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
- 3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned, or divided by 26 shall be the number of hours of leave earned biweekly.

Section 17. Funeral Leave

Eligible employees scheduled to work eight (8) or twelve (12) hour shifts that has a death in the Immediate Family (as defined in Section 12 of this Article) are eligible to receive up to twenty-four (24) working hours of paid funeral leave. Eligible employees scheduled to work twenty-four (24) hour shifts are eligible to receive up to twenty-four (24) working hours paid funeral leave. Any additional time or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken. Funeral leave pay cannot duplicate any other compensation of the same time period. The City may request documentation for this leave whenever there is a pattern of absenteeism demonstrated by the employee or for other reasons as needed.

Section 18. Family and Medical Leave

The City will grant up to 12 weeks of family and medical leave per twelve months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave may be paid (coordinated with the City's Vacation, Compensatory Time and Sick Leave policies), unpaid, or a combination of paid and unpaid. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the City's Leave without Pay policy.

To qualify for FMLA coverage, the employee must have worked for the employer 12 months or 52 weeks; these do not have to be consecutive. However, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA time begins.

Family and medical leave can be used for the following examples:

1. the birth of a child and in order to care for that child;
2. the placement of a child for adoption or foster care;
3. to care for a spouse, child, or parent with a serious health condition;
4. the serious health condition of the employee; or
5. military exigency.

"Military Exigency" is a qualifying exigency arising out of the fact that the fact that the employee's spouse, son, daughter, or parent is a military service member (reserve or national guard) under a call or order to federal active duty in support of a contingency operation.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity or more than three days would be considered a serious health condition.

If both spouses work for the City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, both spouses together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation and accrued

compensatory time for the remainder of the 12-week period.

Military Caregiver Leave: An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of leave in a single 12 month period. During a single 12 month period, the employee is eligible for a total of 26 weeks of all types of FMLA leave.

The request for the use of leave must be made in writing by the employee and approved by the Department Head or City Manager.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Section 19. Medical and Family Leave - Certification

In order to qualify for leave under this law, the City requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the Department Head and filed with the Human Resources Officer.

The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he/she has requested additional time in writing under the City's Leave Without Pay policy.

Section 20. Leave Without Pay

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the City Manager. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, parental leave, continuation of education, special work that will permit the City to benefit by the experience gained or the work performed, or for other reasons deemed justified by the City Manager.

The employee shall apply in writing to the supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

Section 21. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits

When an employee is on leave under FMLA (maximum of 12 weeks in a year), the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the City's group insurance plans at his or her own expense, subject to any regulation adopted by the City Council and the regulations of the insurance carrier.

Section 22. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the first waiting period. The employee may also elect to supplement workers' compensation payments after they begin with sick leave, vacation, or compensatory time, provided that the combination of leave supplement and workers' compensation payments does not exceed normal compensation.

An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the City's group insurance plans. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.

When workers' compensation leave extends long enough for the waiting period to be reimbursed, the employee shall return the reimbursement check to the City and have leave hours reinstated for all time covered by paid leave. In such cases, the City will pay the employee for any unpaid time that is owed the employee.

Section 23. Military Leave

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted two calendar weeks per year for military leave without pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a City employee, the employee shall receive partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period. If such duty is required beyond this ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the City during this period. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

Section 24. Reinstatement Following Military Service

The City will fully comply with the requirements of USERRA and other related federal regulations. An employee called to extended active duty with the United States military forces, who does not volunteer

for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

- 1) Applies for reinstatement within ninety days after the release from military service; and
- 2) Is able to perform the duties of the former position or similar position; or
- 3) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service, but is able to perform the duties of another position in the service of the City. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

Section 25. Civil Leave

A City employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the City any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

Section 26. Parental School Leave

A City employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three following conditions:

- 1) The leave must be taken at a time mutually agreed upon by the employee and the City;
- 2) The City may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and
- 3) The City may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time) taken by an employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the City.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

All separations of employees from positions in the service of the City shall be designated as one of the following types and shall be accomplished in the manner indicated: Resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two calendar weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notice is waived upon recommendation of the Department Head and approval by the City Manager.

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

Section 3. Reduction in Force

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

Section 4. Disability

The City will comply with the Americans with Disabilities act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the City. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The City may require an examination, at the City's expense, performed by a physician of the City's choice.

Section 5. Voluntary Retirement

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

Section 6. Death

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

Section 7. Dismissal

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

Section 8. Reinstatement

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department Head, and upon approval of the City Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

Section 9. Rehiring

An employee who resigns while in good standing may be rehired with the approval of the City Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the City Manager prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or City Manager.

Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of City property or equipment;
- 3) Physical or mental incapacity to perform duties after reasonable accommodation;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Improper use of leave privileges;
- 7) Failure to report for duty at the assigned time and place;
- 8) Failure to complete work within time frames established in work plan or work standards;
- 9) Failure to meet work standards over a period of time; or
- 10) Failure to follow the chain of command to address work-related issues.

Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor.

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the City Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

- 1) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- 2) If performance does not improve, a written recommendation should be sent to the City Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for nonexempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

Demotions are appropriate when an employee has demonstrated inability to perform successfully in the current job, but shows promise and commitment to performing successfully in a lower level job. If no other options are available, dismissal is appropriate.

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the City Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to City service in order to 1)avoid undue disruption of work; 2)to protect the safety of persons or property; or 3)for other serious reasons.

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the City may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud or theft;
- 2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of City funds or personal use of equipment or supplies;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;
- 8) Brutality in the performance of duties;

- 9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- 10) Engaging in incompatible employment or serving a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this Policy;
- 13) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
- 14) Harassment of an employee or the public with threatening or obscene language and/or gestures;
- 15) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work

Section 6. Possible Dismissal: Notice and Hearing

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, department head or a designee thereof, along with other persons deemed necessary to the process, usually including the personnel director, will conduct a pre-dismissal hearing. This hearing will be held upon at least three business days' notice to the employee that a dismissal is being considered and the hearing will be held, unless the employee waives such notice or the particular circumstance require a different period. At this hearing, the employee may present any response to the proposed dismissal to the department head or designee. The department head or designee will consider the employee's response, if any, to the proposed dismissal, and will, within three business days following the pre-dismissal hearing, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

If the hearing results in a decision to dismiss the employee, the employee may appeal this decision in writing to the city manager. Notice of appeal shall be delivered to the personnel director and the city manager within five business days of the date of the dismissal decision.

Upon a timely appeal of a dismissal decision the city manager will schedule a hearing. The employee shall appear at the hearing and may bring whatever documentation the employee deems appropriate, although voluminous documentation may be excluded at the city manager's discretion. The employee may request the right to bring one or more witnesses to testify to critical facts upon written application to the city manager, along with a brief statement as to the content of the proposed testimony. The city manager shall have discretion as to whether to permit such testimony.

Section 7. Non-Disciplinary Suspension

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the Department Head or City Manager, be in the best interest of the City, the Department Head or City Manager may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the City Manager may:

- 1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- 2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued vacation and sick leave shall be maintained during the period of suspension.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from City service.

Section 2. Grievance Defined

A grievance is a claim or complaint by a current or a former employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. Grievance does not include appeal from a dismissal decision, which is covered by Article IX.

Section 3. Purposes of the Grievance Procedure

The purposes of the grievance procedure include, but are not limited to:

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- 3) Promoting better understanding of policies, practices, and procedures which affect employees;
- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
- 6) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
- 7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the City or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Procedure

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension or demotion must be approved by the Department Head or City Manager.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from a local mediation services or other qualified parties to resolve the conflict, upon approval of the Human Resources Director. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant City supervisor or Manager. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and

signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resources Officer.

Step 2. If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate Department Head within ten calendar days after receipt of the response from Step 1. The Department Head shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the City Manager within ten calendar days after receipt of the response from Step 3. The City Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The City Manager's decision shall be the final decision. The City Manager would notify the City Board of any impending legal action.

Department Heads. In the case of Department Heads or other employees where the City Manager has been significantly involved in determining disciplinary action, including dismissal, the City may wish to obtain a neutral outside party to act as a mediator to assist in resolving the conflict.

Section 5. Role of the Human Resources Officer

Throughout the grievance procedure, the roles of the Human Resources Officer shall be as follows:

1. To advise parties (including employee, supervisors, and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
2. To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
3. To give notices to parties concerning timetables of the process, etc.;
4. To assist employees and supervisors in drafting statements; and
5. To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
6. To help locate mediation or other resources as needed.

The Human Resources Officer shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Human Resources Officer or City Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An

employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

ARTICLE XI. RECORDS AND REPORTS

Section 1. Public Information

In compliance with GS 160A-168, the following information with respect to each City employee is a matter of public record:

- 1) name;
- 2) age;
- 3) date of original employment or appointment to the service;
- 4) the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the City has the written contract or a record of the oral contract in its possession;
- 5) current position title;
- 6) current salary;
- 7) date and amount of each increase or decrease in salary with the City;
- 8) date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the City;
- 9) date and general description of the reasons for each promotion with the City;
- 10) date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal; and
- 11) the office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City may adopt.

For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the City.

Section 2. Access to Confidential Records

All information contained in a City employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

- 1) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the City Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The City Manager, with the concurrence of the City Council, may inform any person of the employment, non employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a City employee, and the reasons for that action. Before releasing that information, the City Manager shall determine in writing that the release is essential to maintaining the level and quality of City services. The written determination shall be retained in the City Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Section 3. Personnel Actions

The Human Resources Officer, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the City Manager, normally in the Human Resources office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

Section 4. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

Section 6. Penalties for Permitting Access to Confidential Records

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

Section 7. Examining and/or Copying Confidential Material without Authorization

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Policy 132.3 of the General Statutes.